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**FILED**

APR 29 2011

RICHARD W. WIEKING  
 CLERK, U.S. DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA

Attorneys for Plaintiff

UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

Seth Rosenfeld

Plaintiff,

vs.

Federal Bureau of  
 Investigation, and United  
 States Department of Justice

Defendant.

Case No. **CV 11**

COMPLAINT FOR INJUNCTIVE  
 RELIEF

**2131**

**MEJ**

Plaintiff, Seth Rosenfeld, in support of his Complaint for  
 Injunctive Relief, alleges the following facts:

**JURISDICTION AND VENUE**

1. This is an action under the Freedom of Information Act, 5  
 U.S.C. § 552 ("FOIA") for injunctive and other appropriate relief  
 and seeking the disclosure and release of agency records improperly  
 withheld from Plaintiff Seth Rosenfeld by Defendant Department of  
 Justice (hereinafter, "DOJ") and its component Federal Bureau of  
 Investigation (hereinafter, "FBI") (collectively, "Defendants").  
 This Court has both subject matter jurisdiction over this action

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1 and personal jurisdiction over the parties pursuant to 5 U.S.C. §  
2 552(a)(4)(B). This Court also has subject matter jurisdiction  
3 pursuant to 28 U.S.C. §§ 1331, 1346(a)(2), and 1361.

4 2. Venue is appropriate in this district pursuant to 28 U.S.C. §§  
5 1391(e) and 1402(a)(1), and 5 U.S.C. § 552(a)(4)(B).

6 **INTRADISTRICT ASSIGNMENT**

7 3. This court has Intradistrict Assignment jurisdiction pursuant  
8 to L.R. §§ 3-2(c) and (d).

9 **FACTUAL BACKGROUND**

10 4. Plaintiff Seth Rosenfeld (hereinafter, "Rosenfeld") is a  
11 professional journalist based in San Francisco, California and has  
12 been so for more than 25 years. Rosenfeld seeks the records  
13 described below in his capacity as a professional journalist.

14 5. The DOJ is a Department of the Executive Branch of the United  
15 States Government, and includes the component entity FBI. The DOJ  
16 is an agency within the meaning of 5 U.S.C. § 552(f).

17 6. Rosenfeld was a staff reporter for the San Francisco  
18 Chronicle, employed since 2000. Prior to that Rosenfeld was a  
19 reporter for the San Francisco Examiner from 1984 until 2000.

20 7. Over the course of his career Rosenfeld has researched the  
21 FBI's operations with respect to the University of California,  
22 especially its flagship Berkeley campus, and in particular the  
23 FBI's activities as they relate to academic freedom, civil  
24 liberties and national security. Rosenfeld has focused on  
25 nationally prominent events in and around the campus community,  
26 including but not limited to the loyalty oath of the 1950s, the  
27 civil rights movement of the early 1960s, the Free Speech Movement  
28 of 1964, the anti-war movement of the latter 1960s, the development

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1 of ethnic studies, and other social and political movements.  
2 Rosenfeld has also examined the FBI's activities with respect to  
3 prominent people involved in these events, including for example  
4 the late renowned educator and University of California President  
5 Clark Kerr, the late United States President and Governor of  
6 California Ronald Reagan, and the late Free Speech Movement leader  
7 Mario Savio.

8 8. Rosenfeld has published numerous articles based on his  
9 research in FBI records concerning the above subjects in the Daily  
10 Californian, the San Francisco Chronicle, the Los Angeles Times and  
11 other publications. These include Rosenfeld's June 2002 series in  
12 the San Francisco Chronicle, entitled "The Campus Files." Attached  
13 hereto as Exhibit A are true and correct copies of the June 2002  
14 Campus Files articles. The Campus Files series detailed the FBI's  
15 unconstitutional and unlawful activities at the University of  
16 California, including the FBI's efforts to have Clark Kerr fired as  
17 president of the university because FBI officials disagreed with  
18 Dr. Kerr's personal political views and his campus policies.

19 9. The significance of Rosenfeld's writing and research about the  
20 FBI activities with respect to the University of California have  
21 been recognized in the national press. The Associated Press  
22 carried reports based on The Campus Files series, which appeared in  
23 the Washington Post, the Los Angeles Times, and numerous other  
24 newspapers. CNN and ABC carried news articles about The Campus  
25 Files series, as did many other local television and radio  
26 stations. More than a dozen newspapers wrote editorials about the  
27 series. The New York Times said in a June 16, 2002 editorial about  
28 Rosenfeld's series, "These accounts of the F.B.I.'s malfeasance are

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1 a powerful reminder of how easily intelligence organizations  
2 deployed to protect freedom can become its worst enemy." Attached  
3 hereto as Exhibit A is a true and correct copy of the June 16, 2002  
4 editorial.

5 10. The significance of Rosenfeld's research and writings based on  
6 this research has been further recognized by professional  
7 journalism and educational associations. Rosenfeld's series won  
8 several national awards, including the Edward Willis Scripps Award  
9 for Distinguished Service to the First Amendment, from the Scripps  
10 Howard Foundation; the Eugene S. Pulliam First Amendment Award from  
11 the Society of Professional Journalists; the Freedom of Information  
12 Award, from Investigative Reporters and Editors (IRE); the Joseph  
13 L. Brechner Freedom of Information Award from the University of  
14 Florida; and a special citation from Harvard University's Goldsmith  
15 Award for Investigative Reporting.

16 11. Rosenfeld's research has been based largely on FBI records  
17 released to him pursuant to requests and complaints filed under the  
18 FOIA in the United States District Court for the Northern District  
19 of California in cases C 90-3576 MHP, C 85-1709, and C 85-2247 MHP.  
20 Rosenfeld substantially prevailed in these cases causing the  
21 Defendants to release numerous records.

22 12. The details of Rosenfeld's aforementioned FOIA requests and  
23 the litigation that arose from them are set forth in published  
24 decisions in consolidated actions C 85-2246 MHP, C 85-1709 MHP, and  
25 C 90-3576 MHP. In particular, pertinent details are set forth in  
26 decision at Rosenfeld v. United States Dep't of Justice, 761  
27 F.Supp. 1440, 1441-43 (N.D. Cal. 1991), and Rosenfeld v. United  
28 States Dep't of Justice, 57 F.3d 803, 806-07 (9<sup>th</sup> Cir. 1995). These

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1 cases are still pending at the time of this complaint.

2 **The Subject of the Current Request**

3 13. Richard Masato Aoki, "Aoki," was born on November 20, 1938 and  
4 died on March 15, 2009, at the age of 70. In the 1960's he was a  
5 militant political activist and a prominent public figure who  
6 thrust himself into highly-publicized protests in and around the  
7 Berkeley area. In later years he further publicized these  
8 political activities by giving speeches and interviews about them.

9 14) Aoki was involved with numerous activist organizations of  
10 intense interest to the FBI, including but not limited to: the  
11 Labor Youth League, the Young Socialist Alliance, the Socialist  
12 Worker's Party, the Committee to Uphold the Right to Travel, the  
13 Vietnam Day Committee, the Campus Committee for Lowndes County, the  
14 Tri-Continental Progressive Student's Committee, Asian American  
15 Political Alliance, the Third World Liberation Front, and the Black  
16 Panther Party.

17 15. Aoki played a prominent role in many of these organizations.  
18 For example:

19 a) Between 1961 and 1967, he was continuously either a member  
20 and/or an executive officer of both the Young Socialist Alliance  
21 and the Socialist Workers Party.

22 b) In December 1965, Aoki was a head of the International  
23 Committee of the Vietnam Day Committee acting as a liaison with  
24 anti-war groups from foreign countries.

25 c) By early 1967 he had become the only Asian member of the  
26 Black Panther Party to achieve a leadership position and would  
27 serve as a field marshal. Aoki gave the Black Panthers some of  
28 their first weapons and provided weapons training as well. Bobby

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1 Seale, a founding member of the Black Panthers, stated in his book,  
2 *Seize the Time*, that Aoki gave the Panthers guns, including an M-1,  
3 9mm, and .357 Magnum. The presence of such weapons contributed to  
4 the organization's confrontations with police and figured in the  
5 arrests of several Panthers including Seale, Huey Newton, and  
6 Eldridge Cleaver. Regardless of his motivations, Aoki, by arming  
7 the Panthers, set in motion "a series of events that placed the Bay  
8 Area under worldwide scrutiny," as the historian Curtis Austin  
9 noted in his book, *Up Against the Wall, Violence in the Making and*  
10 *Unmaking of the Black Panther Party*, page 5. Attached hereto as  
11 Exhibit B are true and correct copies of excerpts from *Seize the*  
12 *Time, The Story of the Black Panther Party and Huey P. Newton* by  
13 Bobby Seale pages 72, 73, 79, 234, 368, 369, 382, and *Up Against*  
14 *the Wall, Violence in the Making and Unmaking of the Black Panther*  
15 *Party* by Curtis J. Austin, page 56.

16 d) In 1968 and 1969 Aoki was a leader of the Asian American  
17 Political Association, a radical student organization at UC-  
18 Berkeley.

19 e) In 1969, Aoki was one of the main leaders of the Third  
20 World Liberation Front, whose protests involved violent  
21 confrontations at UC Berkeley during their demand for ethnic  
22 studies.

23 16. During this period the FBI intensively investigated many of  
24 the organizations Aoki was affiliated with on the purported grounds  
25 that FBI officials suspected that these organizations were involved  
26 in subversive activities. To wit:

27 a) The Labor Youth League, the youth arm of the Communist  
28 Party, was on the Attorney General's list of subversive

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1 organizations. Attached hereto as Exhibit C is a true and correct  
2 copy of excerpts from *The Age of McCarthyism, A Brief History with*  
3 *Documents*, pages 168-172.

4 b) The FBI targeted the Socialist Worker's Party and the Youth  
5 Socialist Alliance for intensive investigation and disruption under  
6 COINTELPRO, according to court rulings, congressional hearings and  
7 news accounts. See, for example, the U.S. Senate Select Committee  
8 to Study Governmental Operations with Respect to Intelligence  
9 Activities (known as the "Church Committee" after its Chairman,  
10 Senator Frank Church), Book III, pages 4, 15.

11 c) The FBI was so interested in the Socialist Workers Party  
12 that one in ten of its members was actually an FBI informant,  
13 according to the Washington Post article dated August 26, 1986  
14 titled "Socialists Win Damages." Attached hereto as Exhibit D is  
15 a true and correct copy of the Washington Post article "Socialists  
16 Win Damages."

17 d) Additionally, the FBI placed members of the Socialist  
18 Workers Party on its Security Index, a list of people on whom the  
19 FBI opened main files, conducted continuous investigation, and  
20 planned to arrest without warrant in the event of a national  
21 emergency, according to the Church Committee, Book III, page 438.

22 e) The FBI extensively investigated the Vietnam Day Committee,  
23 compiling thousands of pages on the organization, according to FBI  
24 records.

25 f) The FBI investigated, and sought to disrupt, the Black  
26 Panther Party, under COINTELPRO, according to the Church Committee,  
27 Book III. Attached hereto as Exhibit E is a true and correct copy  
28 of excerpts from the Church Committee, Book III, pages II, III, 3,

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1. 4, 15, 16, 17, 20, 21 22, 187, 188, 436, 437, 438.

2 g) The FBI investigated the Asian American Political Alliance,  
3 compiling lengthy reports on the organization, according to FBI  
4 records.

5 h) The FBI investigated the Third World Liberation Front,  
6 compiling thousands of pages on the organization, according to FBI  
7 records.

8 17. Aoki died on March 15, 2009 at the age of 70. He never  
9 married, had no children, and when he died he left no surviving  
10 relatives, according to his autopsy report and obituary. Several  
11 articles were written about Aoki's passing, including an article  
12 dated April 26, 2009 in the San Francisco Chronicle titled "Campus  
13 activist Richard Masato Aoki dies at 70," an article dated April 1-  
14 14, 2009 in the International Examiner titled "Renowned Activist  
15 Passes Away," and an article dated March 24, 2009 in The ANBM  
16 Source titled "Activist Richard Aoki Dies." Attached hereto as  
17 Exhibit F are the three above mentioned articles, "Campus Activist  
18 Richard Masato Aoki dies at 70," "Renowned Activist Passes Away,"  
19 and "Activist Richard Aoki Dies."

20 18) There is thus great public interest in knowing the fullest  
21 possible extent of the government's activities in relationship to  
22 Aoki and, at the same time, in light of his public figure and  
23 deceased status, there is minimal interest in withholding any  
24 information on the basis of privacy.

25 **The Aoki Request**

26 19. Rosenfeld has continued his research in FBI files in order to  
27 write additional articles and a book. Rosenfeld has thus submitted  
28 additional separate requests related to his continuing research

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1 about the FBI's activities with respect to the University of  
2 California, including this request for Richard Masato Aoki.  
3 Despite the previous extensive litigation brought by Rosenfeld,  
4 Defendants have once again failed to comply with his FOIA requests.  
5 Defendants have released some records, withheld portions of some  
6 released records, and failed to release others. Further,  
7 Defendants have failed to conduct an adequate search for records  
8 that they have still not released. Defendants have failed to  
9 search all original records and search partially computerized  
10 records that were incomplete. The FBI is in the process of  
11 computerizing inactive and/or older paper records, and as a result  
12 these records are in disarray and the FBI does not properly search  
13 these records.

14 20. The following FOIA request regarding Richard Masato Aoki is at  
15 issue in the instant complaint. Rosenfeld has made other FOIA  
16 requests that the Defendants have similarly failed to comply with,  
17 and Rosenfeld may amend this complaint to add these other requests  
18 as necessary.

19 21. Rosenfeld is informed and believes and alleges that the FBI  
20 has adopted a deliberate policy of ignoring specific requests  
21 lawfully made under the FOIA with the purpose of discouraging,  
22 delaying and otherwise denying citizens lawful access to public  
23 records. As part of this policy, the FBI fails to conduct adequate  
24 searches for requested records, and on that basis falsely  
25 represents to the public that it has been unable to locate  
26 responsive records.

27 22. Although Defendants have received enormous budgetary increases  
28 to gather information for the purposes of protecting and serving

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1 the public, Defendants have allocated a smaller and smaller  
2 proportion of these funds toward complying with the FOIA to let  
3 citizens know what their government is up to. This perennial and  
4 deliberate underfunding of the FOIA staff is partly responsible for  
5 the FBI's failure to comply with the FOIA in these cases.

6 **CAUSE OF ACTION**

7 RECORDS PERTAINING TO RICHARD MASOTO AOKI, DECEASED

8 (FOIPA No. 1130210-000 and 1156279-000, Appeal No. 09-2072,  
9 Appeal No. 09-2134, Appeal No. AP-2011-00323, Appeal No. AP-2011-  
10 00614 and Appeal No. AP-2011-01003)

11 23. By letter dated May 5, 2009, Rosenfeld submitted a request for  
12 records to FBI Headquarters and the FBI San Francisco office  
13 requesting "any and all records" pertaining to Richard Masato Aoki,  
14 deceased. The request was in two parts. The first part sought any  
15 and all pre-processed records pertaining to Mr. Aoki that the FBI  
16 may have already had in its possession. The second part asked for  
17 a reprocessing of those records for any and all additional  
18 responsive records, including but not limited to main files and  
19 main file equivalents including all administrative and appendix  
20 pages, see references, Do Not File records, channelized records,  
21 search records and search slips, ELSUR records, index cards,  
22 records that are or were maintained in SAC safes, bulky exhibits,  
23 abstract records, and "JUNE" mail. Rosenfeld asked for expedited  
24 processing as the request sought information for professional news  
25 reporting purposes in which time is of the essence. Rosenfeld's  
26 letter also asked that records be processed in light of the  
27 deceased and public figure status of the people who may appear in  
28 the records, and in light of President Obama's directive that

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1 agencies release as much public information as possible. Attached  
2 hereto as Exhibit G are true and correct copies of the May 5, 2009  
3 letters.

4 24. By letter dated May 7, 2009, FBI Headquarters acknowledged  
5 receipt of the request and assigned it FOIPA No. 1130210-000.  
6 Attached hereto as Exhibit H is a true and correct copy of the May  
7 7, 2009 letter.

8 25. By letter dated May 13, 2009, FBI Headquarters informed  
9 Rosenfeld that his request for expedited processing had been  
10 denied. Attached hereto as Exhibit I is a true and correct copy of  
11 the May 13, 2009 letter.

12 26. By letter dated June 17, 2009, Rosenfeld appealed to the DOJ  
13 for failure to release any records so far and for failure to grant  
14 expedited processing. Attached hereto as Exhibit J is a true and  
15 correct copy of the June 17, 2009 letter.

16 27. By letters dated June 30, 2009, and July 7, 2009, the DOJ  
17 acknowledged receipt of the appeal and assigned it numbers 09-2072  
18 and 09-2134 respectively. The DOJ denied the appeal in a letter  
19 dated July 23, 2009 and also closed Appeal No. 09-2134 as a  
20 duplicate. Attached hereto as Exhibit K are true and correct  
21 copies of the June 30, 2009, July 7, 2009, and July 23, 2009  
22 letters.

23 28. As of August 17, 2009, the FBI had neither released any  
24 records nor provided a date when it reasonably expected to do so.  
25 Rosenfeld further appealed to the DOJ for the release of any and  
26 all records and asked the FBI to promptly release the records in a  
27 letters dated August 17, 2009. Attached hereto as Exhibit L are  
28 true and correct copies of the August 17, 2009 letters.

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1 29. By letter dated December 14, 2009, the FBI notified Rosenfeld  
2 that approximately 2,000 potentially responsive documents had been  
3 located. The letter provided an estimate of the cost to Rosenfeld  
4 to produce the documents. Rosenfeld agreed to pay the cost in  
5 letter dated December 31, 2009 and reminded the FBI to advise him  
6 if any of requested records had been previously processed.  
7 Attached hereto as Exhibit M are true and correct copies of the  
8 December 14, 2009, and December 31, 2009 letters.

9 30. Despite the above correspondence, the FBI had still not  
10 released any records in the ten months since his initial request.  
11 By letter dated March 6, 2010, Rosenfeld again asked the FBI to  
12 promptly release all non-exempt records, and if unable to do so, to  
13 provide a specific date when it reasonable expected to release the  
14 records. Also by letter dated March 6, 2010, Rosenfeld further  
15 appealed to the DOJ that the FBI has failed to comply with the  
16 request. Attached hereto as Exhibit N are true and correct copies  
17 of the March 6, 2010 letters.

18 31. By letters dated July 3, 2010, Rosenfeld reminded the FBI the  
19 request was 14 months old and still no records have been released  
20 and issued another appeal to the DOJ for the release of all non-  
21 exempt records or to specify a date when the FBI reasonably  
22 expected to do so. This was fourth appeal to the DOJ without any  
23 records of any kind released. Attached hereto as Exhibit O are true  
24 and correct copies of the July 3, 2010 letters.

25 32. The DOJ again denied Rosenfeld's appeal by letter dated  
26 September 7, 2010, on the grounds that no adverse determination by  
27 the FBI had yet been made on the pending Aoki request. Since the  
28 request was now 16 months old and no records had been released,

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1 Rosenfeld again appealed to the DOJ to instruct the FBI to release  
2 all non-exempt records in a letter dated September 7, 2010.  
3 Attached hereto as Exhibit P are true and correct copies of the  
4 September 7, 2010 letters.

5 33. The first release of records came by letter dated October 1,  
6 2010, a full 17 months after Rosenfeld's initial request. The FBI  
7 released 1,352 pages of potentially 1,859 responsive pages based on  
8 its application of the Section 552 FOIA exemptions. The FBI also  
9 indicated that an unspecified number of records had been destroyed  
10 and could not be reviewed. Attached hereto as Exhibit Q is a true  
11 and correct copy of the October 1, 2010 letter.

12 34. Based on his review of the released records, Rosenfeld further  
13 appealed to the DOJ by letter dated October 13, 2010. The FBI  
14 withheld 507 pages in full and also withheld numerous parts of the  
15 records it did release. Rosenfeld appealed the FBI's improper  
16 withholding of these records and also the failure to release  
17 numerous records that had apparently not been processed. Rosenfeld  
18 reiterated his concerns directly to the FBI regarding the failure  
19 of the FBI to release the records in a letter dated October 14,  
20 2010. Attached hereto as Exhibit R are true and correct copies of  
21 the October 13, 2010 and October 14, 2010 letters.

22 35. Due to the FBI's continuing failure to properly release the  
23 records for Aoki, Rosenfeld filed another FOIA request with the FBI  
24 by letter dated October 14, 2010 concerning the outstanding request  
25 No. 1130210. This second request sought any and all search records  
26 of any kind used to process the request, any and all records  
27 generated in the processing of the request to in any way concern  
28 the FBI's decision to withhold any records from the request, any

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1 and all communications with other agencies concerning the  
2 processing of the request and any and all records documenting the  
3 destruction of records responsive to both requests. Attached  
4 hereto as Exhibit S is a true and correct copy of the October 14,  
5 2010 letter.

6 36. In letters dated November 1, 2010, the FBI acknowledged  
7 receipt of the new request, assigned it FOIPA Request No. 1156279-  
8 000 and indicated that it would address only responsive abstracts,  
9 while index cards and search slips would be addressed by request  
10 No. 1130210-001. The FBI also reopened the original request No.  
11 1130210-000. Attached hereto as Exhibit T are true and correct  
12 copies of the November 1, 2010 letters.

13 37. Rosenfeld wrote the FBI by letter dated November 11, 2010, to  
14 address the continuing failure of the FBI to properly release all  
15 non-exempt responsive records. Rosenfeld indicated the specific  
16 portions of his request that have yet to be addressed and again  
17 asked for the prompt release of all non-exempt responsive records  
18 or a specified time when they can be reasonably expect to release  
19 the records. Attached hereto as Exhibit U is a true and correct  
20 copy of the November 11, 2010 letter.

21 38. By letter dated November 12, 2010 the DOJ acknowledged receipt  
22 of Rosenfeld's appeal and assigned it No. AP-2011-00323. Attached  
23 hereto as Exhibit V is a true and correct copy of the November 12,  
24 2010 letter.

25 39. By letter dated December 9, 2010, the FBI released 15 of 15  
26 pages of responsive documents under FOIPA No. 1130210-001  
27 containing search records. Attached hereto as Exhibit W is a true  
28 and correct copy of the December 9, 2010 letter.

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1 40. By letter dated December 10, 2010, Rosenfeld further appealed  
2 the FBI's failure to release all non-exempt records for both  
3 requests 1130210-000 and 1156279-000. Attached hereto as Exhibit  
4 X is a true and correct copy of the December 10, 2010 letter.

5 41. By letter dated December 23, 2010, the DOJ acknowledged  
6 receipt of Rosenfeld's most recent appeal and assigned it number  
7 AP-2011-00614. Attached hereto as Exhibit Y is a true and correct  
8 copy of the December 23, 2010 letter.

9 42. By letter dated December 23, 2010, the FBI released 7 of 7  
10 pages responsive to FOIPA No. 1156279-000. Attached hereto as  
11 Exhibit Z is a true and correct copy of the December 23, 2010  
12 letter.

13 43. By letter dated December 23, 2010, Rosenfeld filed a further  
14 appeal based on the 15 page release of records on December 9, 2010.  
15 Rosenfeld alleged the FBI failed to conduct a full and complete  
16 search for the records and was withholding non-exempt responsive  
17 records. Attached hereto as Exhibit AA is a true and correct copy  
18 of the December 23, 2010 letter.

19 44. By letter dated January 19, 2011, Rosenfeld further appealed  
20 to the DOJ the 7 page release of records on December 23, 2010, and  
21 alleged the FBI failed to conduct a full and complete search for  
22 the requested records and is withholding non-exempt responsive  
23 records. Rosenfeld reminded the FBI in a separate letter dated  
24 January 19, 2011, that FOIA does not permit agencies to engage in  
25 open ended delays that serve to constructively deny requests.  
26 Attached hereto as Exhibit BB are true and correct copies of the  
27 January 19, 2011 letters.

28 45. By letter dated January 24, 2011, the FBI informed Rosenfeld

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1 the direct response referrals sent to the Department of defense are  
2 still pending. Attached hereto as Exhibit CC is a true and correct  
3 copy of the January 24, 2011 letter.

4 46. By letter dated February 3, 2011, the DOJ acknowledged  
5 Rosenfeld's further appeal, presumably responding to Rosenfeld's  
6 January 24, 2011 letter, and assigning it number AP-2011-01003.  
7 Attached hereto as Exhibit DD is a true and correct copy of the  
8 February 3, 2011 letter.

9 47. By letter dated April 4, 2011, Rosenfeld advised the FBI that  
10 Donald L. Cox, a member of the Black Panthers, died recently.  
11 Thus, Mr. Cox's deceased status militates in favor of greater  
12 releases of any instance in which his name may appear in the  
13 requested records. Attached hereto as Exhibit EE is a true and  
14 correct copy of the April 4, 2011 letter and a copy of New York  
15 Times article dated March 13, 2011 titled "D.L. Cox, a Leader of  
16 Radical During 1960s, Dies at 74."

17 48. To date, Defendants have failed to provide Rosenfeld all  
18 records concerning Richard Masato Aoki as required by the FOIA. In  
19 total, the FBI has produced 1374 pages, some with deletions, and  
20 withheld an additional 507 pages in full. On information and  
21 belief, Rosenfeld believes there are additional non-exempt  
22 responsive records Defendants have not produced.

23 49. Rosenfeld has exhausted the applicable administrative remedies  
24 with respect to this request.

25 50. The Defendants have wrongfully withheld the requested records  
26 from Rosenfeld.

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**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff Seth Rosenfeld prays that this Court:

- A) Order Defendants to conduct complete and thorough searches for all requested records, and produce all requested records so located, based on the following names and reasonable variations of them, including but not limited to Richard Aoki, Richard Aokie, Rich Aoki, Richard Aoka, R.A., Richard Masato Aoki, Richard Matsui Aoki, Richard Masa Aoki, and Richard Ford, Richard Iokey, Richard Assegai, Richard Aoika, Richard Masata, Richard Matsui, and Richard Masa;
- B) Apply the lists of deceased people and other information provided by Rosenfeld and otherwise readily available to the FBI to the responsive records to ensure that all information is properly released, and produce all requested records so located;
- C) Order Defendants to promptly release to Rosenfeld all non-exempt requested records and all reasonably segregable non-exempt portions of such records;
- D) Grant discovery relevant to handling or processing of any and all requested records, including but not limited to, all main files, see references, Do Not File Files, channelized records, search slips, ELSUR records, index cards, records that are or were maintained in SAC safes, bulky exhibits, destruction of file records, and grant discovery relevant to the FBI's underfunding of the FOIA processing unit and its deficient computerization of paper records;
- E) Award Plaintiff costs and reasonably attorneys fees incurred in this action; and
- F) Grant such other relief as the Court may deem just and proper.

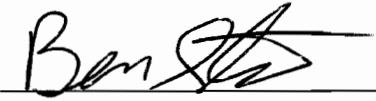
COMPLAINT

1 DATED: 29 April 2011

Respectfully submitted,

2 Benjamin W Stein  
3 LAW OFFICES OF BENJAMIN STEIN

4  
5  
6 By:



7 Attorney for Plaintiff  
8 SETH ROSENFELD  
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